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17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **WESTERN DIVISION**

20 ZKEY INVESTMENTS, LLC,

21 Plaintiff,

22 vs.

23 FACEBOOK, INC.,

24 Defendant.
25
26
27

Case No. 2:16-cv-782_____

**COMPLAINT FOR
INFRINGEMENT OF U.S.
PATENT NO. 6,820,204**

DEMAND FOR JURY TRIAL

1 Plaintiff ZKey Investments, LLC (“ZKey” or “Plaintiff”) hereby submits this
2 Complaint for patent infringement against Defendant Facebook, Inc. (“Facebook”
3 or “Defendant”).

4 **THE PARTIES**

5 1. Plaintiff ZKey is a Limited Liability Company existing under the laws of
6 Delaware with its principal place of business at New York Design Center, 200
7 Lexington Ave., Suite 701, New York, NY 10016.

8 2. Upon information and belief, Defendant Facebook is a Delaware corporation
9 with its headquarters at 1601 Willow Road, Menlo Park, California 94025. Upon
10 information and belief, Facebook also maintains offices in Los Angeles, California
11 and Woodland Hills, California. Facebook may be served via its registered agent,
12 Corporation Service Company, 2710 Gateway Oaks Drive, Suite 150N,
13 Sacramento, California 95833.

14 **JURISDICTION AND VENUE**

15 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and
16 1338(a) because this action arises under the patent laws of the United States, 35
17 U.S.C. §§ 101 *et seq.*

18 4. This Court has personal jurisdiction over Facebook. Facebook is amenable
19 to service of summons for this action. Furthermore, personal jurisdiction over
20 Facebook in this action comports with due process. Facebook has conducted and
21 regularly conducts business within the United States and this judicial district.
22 Facebook has continuous and systematic contacts with California and this judicial
23 district. Furthermore, Facebook has purposefully availed itself of the privileges of
24 conducting business in the United States and this judicial district. Facebook has
25 sought protection and benefit from the laws of the State of California by
26 maintaining offices in California and this judicial district, by selling advertisements
27 with the expectation and/or knowledge that they will be purchased by consumers in
28

1 this judicial district, and/or by offering advertisements targeted at consumers in
2 this judicial district, and/or by having partners and customers in this judicial
3 district. In California and in this judicial district, Facebook regularly does or
4 solicits business and engages in other persistent courses of conduct. Facebook
5 derives substantial revenue from services provided to individuals in California and
6 in this judicial district. Plaintiff's causes of action arise directly from Facebook's
7 activities in this judicial district.

8 5. Venue is proper in this federal district pursuant to 28 U.S.C. §§ 1391(b)-(c)
9 and 1400(b) in that Facebook has done business in this District, has committed acts
10 of infringement in this District, and continues to commit acts of infringement in
11 this District, entitling ZKey to relief.

12 **BACKGROUND**

13 6. ZKey's predecessor, SDN Online Inc. ("SDN"), was founded in Los
14 Angeles in the late 1990s by Dr. Jay Udani, Dr. David Richardson, and Mr. Nick
15 Desai. SDN provided a web service, first via <http://z-central.com> and later via
16 <http://zkey.com>, that allowed users to manage their personal data and selectively
17 share that data with other users. The Zkey.com portal was based, in part, on
18 technology developed and patented by SDN and its founders. In 1999, SDN was
19 awarded the PC Magazine Editors' Choice in recognition of its Zkey.com portal.

20 7. In 2000, SDN partnered with Corel to embed its Zkey technology into Corel
21 products and within its <http://CorelCity.com> web portal. SDN also licensed the
22 Zkey technology to Virgin, where it provided the back-end infrastructure for
23 Virgin's <http://virginstudent.com> portal, one of the first "social media" web
24 portals.

25 **FACEBOOK'S INFRINGING PRODUCTS**

26 8. The following facts relating to Facebook are provided upon information and
27 belief. Facebook provides online networking services ("Facebook Networking
28

Services”) through its web portal (<http://facebook.com>), mobile applications, plug-ins, and other tools in the United States. Facebook Networking Services are provided by a multitude of Facebook-controlled servers including, but not limited to, web servers and database servers.

9. The Facebook Networking Services provide a real-time information exchange designed to share user profile information between Facebook’s users. *See* 2015 10K at 5 (“Our mission is to give people the power to share and make the world more open and connected.”). In particular, the Facebook Networking Services store various user profile information (*e.g.*, “Work and Education,” “Places You’ve Lived,” “Contact and Basic Info,” “Family and Relationships,” “Details About You,” and “Life Events”) in one or more databases. The Facebook Networking Services then permit users to control access to their own user profile information within those databases on a granular level. For example, as shown below, the Facebook Networking Services permit users to limit the access to the “Address” portion of their “Contact and Basic Info” user profile to the “Public,” “Friends,” “Close Friends,” “Family,” or “Specific People or Lists,” including the ability to deny particular users access to user profile information:

The screenshot displays the Facebook 'About' page for a user. The left sidebar lists various profile sections: Overview, Work and Education, Places You've Lived, Contact and Basic Info (selected), Family and Relationships, Details About You, and Life Events. The main content area shows the 'CONTACT INFORMATION' section with fields for Address, City/Town (Houston, Texas), Zip, and Neighborhood. A dropdown menu for 'Friends' is open, showing options: Public, Friends (checked), Only Me, Custom, Close Friends, and Family. Below this, it indicates '3 emails hidden from Timeline'. To the right, a 'Custom Privacy' dialog box is open, showing settings for 'Share this with' (Specific People or Lists...) and 'Don't share this with'. Both sections have input fields for selecting specific people or lists. The dialog box includes 'Save Changes' and 'Cancel' buttons.

1 **INFRINGEMENT OF U.S. PATENT NO. 6,820,204**

2 10. On November 16, 2004, United States Patent No. 6,820,204 (“the ‘204
3 Patent”) was duly and legally issued for inventions entitled “System and Method
4 for Selective Information Exchange.” ZKey owns the ‘204 Patent and holds the
5 right to sue and recover damages for infringement thereof. A true and correct copy
6 of the ‘204 Patent is attached hereto as Exhibit 1.

7 11. On information and belief, Facebook has directly infringed and continues to
8 directly infringe numerous claims of the ‘204 Patent, including at least claims 1-2,
9 by its manufacture and use of the system that implements Facebook Networking
10 Services. Facebook is liable for infringement of the ‘204 Patent pursuant to 35
11 U.S.C. § 271.

12 12. Facebook’s infringement of the ‘204 Patent has damaged ZKey, and
13 Facebook is liable to ZKey in an amount to be determined at trial that compensates
14 ZKey for the infringement, which by law can be no less than a reasonable royalty.

15 13. As a result of Facebook’s infringement of the ‘204 Patent, ZKey has
16 suffered irreparable harm and will continue to suffer loss and injury unless
17 Facebook is enjoined by this Court.

18 **FACEBOOK’S PRIOR KNOWLEDGE OF THE PATENT-IN-SUIT**

19 14. Facebook is the original assignee of numerous patents that pertain to real-
20 time information exchange systems similar to those described in the ‘204 Patent.
21 Additionally, many of Facebook’s patents directly reference or cite the ‘204 Patent.

22 15. The ‘204 Patent is cited by the following Facebook patents: U.S. Patent
23 Nos. 8,583,751 (published Nov. 12, 2013); 8,713,114 (published Apr. 29, 2014);
24 8,775,557 (published July 8, 2014); 9,021,057 (published Apr. 28, 2015); and
25 9,037,740 (published May 19, 2015). Additionally, U.S. application Serial No.
26 13/073,678 (published Mar. 21, 2013) cites the ‘204 Patent. Accordingly,
27 Facebook has had knowledge of the ‘204 Patent since at least March 21, 2013.

1 Despite such knowledge, Facebook has proceeded to infringe the '204 Patent with
2 full and complete knowledge of its applicability to its products without taking a
3 license under the '204 Patent and without a good faith belief that the '204 Patent is
4 invalid and not infringed. Thus, Facebook's infringement of the '204 Patent is
5 willful and deliberate, entitling ZKey to increased damages under 35 U.S.C. § 284
6 and to attorneys' fees and costs incurred in prosecuting this action under 35 U.S.C.
7 § 285.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, ZKey prays for the following relief:

10 16. A judgment in favor of ZKey that Facebook has infringed and is infringing
11 U.S. Patent No. 6,820,204;

12 17. An Order permanently enjoining Facebook, its respective officers, agents,
13 employees, and those acting in privity with it, from further direct and/or indirect
14 infringement of U.S. Patent No. 6,820,204;

15 18. An award of damages to ZKey arising out of Facebook's infringement of
16 U.S. Patent No. 6,820,204, including enhanced damages pursuant to 35 U.S.C.
17 § 284, together with prejudgment and post-judgment interest, in an amount
18 according to proof;

19 19. An award of an ongoing royalty for Facebook's post-judgment infringement
20 in an amount according to proof;

21 20. An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as otherwise
22 permitted by law; and

23 21. Granting ZKey its costs and further relief as the Court may deem just and
24 proper.

25 **DEMAND FOR JURY TRIAL**

26 22. ZKey demands a trial by jury of any and all issues triable of right before a
27 jury.

1 Dated: February 4, 2016

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